

# Government Accountability Board

## State of Wisconsin

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## G.A.B. Denies Challenges to ‘Fake Democrat’ Recall Candidates

MADISON, WI – Six individuals identified as “protest candidates” by the Republican Party of Wisconsin and as “fake Democrats” by the Democratic Party of Wisconsin will appear on the May 8 recall ballot in the Democratic Party primaries, the Government Accountability Board decided today.

The Board voted unanimously to deny the nomination paper challenges against the candidates whom the Republican Party said it placed on the ballot to ensure all the final recall elections would be held June 5, instead of some on May 8.

The final list of candidates in the May 8 recall primary is attached. The six protest candidates are Gladys Huber (Governor), Isaac Wiex (Lt. Governor), Gary Ellerman (Senate District 13), Tamra Lyn Varebrook (Senate District 21), James Engel (Senate District 23), and James Buckley (Senate District 29).

“We are being asked ... to determine whether candidates are lying,” said Board Member Timothy Vocke. “That is an impossible task for this Board or anybody else to solve. It is something strictly for the voters to do.”

“For a century, Wisconsin has had a system of open primary elections, where the people have the freedom to decide who represents the political parties in a general election, not the party leaders,” said Kevin J. Kennedy, director and general counsel of the G.A.B. “The price of that freedom is what some might consider to be occasional political mischief. No matter how politically objectionable some people may find this, it is not a legal reason to deny someone a place on the ballot. Wisconsin trusts the voters to sort out these issues at the ballot box.”

Wisconsin election laws do not require an individual to be a member of a political party to seek that party’s nomination in a primary election. The law also does not permit the Board to inquire into the motivations for an individual’s candidacy for office. If it did, a government agency would be making subjective judgments about who is a legitimate political candidate, infringing on the First Amendment rights of freedom of speech and association, Kennedy said.

The Board’s staff had recommended that the Board deny the challenges to the protest candidates because no statute prohibits an individual from submitting nomination papers and related documents without the support of the political party whose nomination is sought, or conducting a campaign for office for any political or strategic reason.

Attorney Jeremy Levinson, who filed the nomination paper challenges, also filed a complaint alleging criminal violations of Wis. Stat. §12.13, which prohibits making false statements to election officials and falsifying any information in respect to a nomination paper or declaration of candidacy.

Complaints alleging violations of Chapter 12 are required to be considered by the Board in closed session. In closed session today, the Board determined not to open an investigation. The complainants may pursue the matter with local District Attorneys, who alone have the power to prosecute alleged violations of Chapter 12. The G.A.B. does not have the authority to prosecute criminal cases.

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The Government Accountability Board is responsible for administration and enforcement of campaign finance, elections, ethics and lobbying laws in Wisconsin. The board is made up of six non-partisan, former judges and is supported by an agency of non-partisan staff members.